

REMARKS/ARGUMENTS

This amendment is submitted in response to the Office Action dated August 28, 2006. Reconsideration and allowance is respectfully requested in view of the remarks made below.

1. The Prior Art Rejections

Original claims 1-5 were rejected under Section 103 based on a combination of US Patent 3,360,157 to Bolt et al. ("Bolt"), US patent 3,934,527 to Saunders ("Saunders") and US patent 3,468,769 to Swalheim ("Swalheim"). Applicant respectfully but strenuously traverses these rejections and respectfully submits that such rejections should not be applied to the claims as amended or to newly presented claims 22 and 23, for the reasons set forth below.

Bolt discloses a method of forming a coated metal container that involves drawing and ironing a sheet or strip of low carbon, cold rolled steel that is electrolytically coated with a thin layer of tin. This reference does not disclose or suggest forming a container that has an unbreached, intact coating of tin on the inner surface of the container for the purpose of packaging light colored fruits or vegetables. Instead, the purpose of the tin coating in Bolt appears to be for lubrication purposes. As column 1, line 70 through column 2 line 9 of the reference points out, while the drawing and ironing process has been used extensively in the manufacture of seamless aluminum containers, difficulty has been encountered in utilizing this technique for the manufacture of steel seamless containers. The objects of the invention that are listed immediately following this paragraph make it clear that the object of the invention was to provide a method of drawing and ironing a steel cup-shaped container without fracture of the metal during the drawing and ironing process.

Column 3, lines 1-8 of the Bolt reference disclose that the final tin thickness must be sufficient to completely cover both surfaces of the final sidewall. This implies that the thickness of 45 microinches that is stated immediately thereafter expresses the total thickness of two

different coatings that are provided on opposite sides of the stock material, one side for forming the inner surface of the final sidewall and the other side for forming the outer surface of the final sidewall. Assuming that the coatings on the two different sides are of equal thickness, this would translate to each coating having a thickness of approximately 22.5 microinches. However, it is important to realize that this is the thickness of the tin coating prior to the base material being processed using the drawing and ironing process. Applicants claims are directed to the can having a sidewall that has already undergone the drawing and ironing process. If the base material in Bolt having a tin thickness of 22.5 microinches is processed using the drawing and ironing process, the inner and outer sidewall will end up with a coating of tin that is substantially less than 22.5 microinches. Column 3 lines 3-5 mention a reduction in the thickness of the material by about 50%. If this passage is referring to the reduction in the thickness of material as a result of processing using the drawing and ironing process, it would correspond to a final tin thickness of approximately 11.25 microinches.

The undersigned has been advised that the following relationship exists between pounds per base box and microinches:

Tin Coating Weight Total (lb/bb)	Approximate Tin Coating Thickness		
	microinches	millimeters	microns
0.15	9.1	0.00023	0.23
0.30	18	0.00046	0.46
0.74	45	0.00114	1.14
0.30	18	0.00046	0.46

The tin thickness of .15 pounds per base box corresponds to a thickness of about 9.1 microinches. Applicant has amended independent claim 1 to specify that the internal coating of tin is at least about 0.20 pounds per base box, which corresponds to a microinch thickness (12.13) that is greater than is disclosed in the Bolt reference (11.25). New independent claim 22 also contains such a limitation.

Both independent claim 1 and independent claim 22 further recite an unbreached, intact coating of tin on the inner surface of the sidewall. This is not disclosed or suggested in Bolt.

The Bolt reference, because it is related mainly to lubrication, teaches that the tin coating should have a matte surface rather than a smooth surface in order to permit lubrication oil to be absorbed into the surface of the tin coating. Such a rougher surface would be more susceptible to cracking and make it less likely that the internal tin coating of a container produced according to the disclosure of Bolt would remain unbreached and intact.

Applicant's independent claim 22 positively recites a DWI can containing a light-colored fruit or vegetable. There is absolutely no disclosure or suggestion in Bolt of this feature.

Saunders discloses a can having a lid. There is no suggestion or incentive present that would have led a person having ordinary skill in the art to modify a container manufactured according to the process disclosed in Bolt in order to contain a lid is disclosed in Saunders.

The Swalheim reference has nothing to do with can making and as such is not analogous prior art. Accordingly, its use in a section 103 obviousness rejection is legally improper. In addition, there is no suggestion or incentive present that would have led a person skilled in the art to contemplate modifying the Bolt reference in order to use a base material having the dimensions that are disclosed in Swalheim. In addition, even if it is presumed that the stock material discussed in the Swalheim reference is intended for use as a blank for a DWI can, the thickness that is disclosed in Swalheim would obviously become much thinner if it were processed through the DWI can making process.

None of the three applied references relate at all to the packaging of light colored fruits or vegetables as Applicant's claims set forth. Accordingly, no possible combination of these references, even if legally permissible, could yield the invention as claimed.

The Office Action does not even aver that any suggestion or motivation is present that would have led one of ordinary skill in the art to make the modifications that are proposed in the rejection. Accordingly, the rejection fails on its face to establish a prima facie case of obviousness. For that reason, withdrawal of the rejection and allowance of all of the claims still pending is respectfully solicited.

2. Conclusion

Applicant has made an earnest effort to place this application in condition for allowance. If the Examiner feels that a telephone interview would expedite prosecution of this patent application, he or she is respectfully invited to telephone the undersigned at 215-599-0600. Contact with the undersigned via electronic mail at jknoble@patentwise.com is hereby authorized¹ per MPEP 502.03.

Respectfully submitted,

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¹ Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file.